IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

CRL.A.No. 897 of 2006()

AGAINST THE ORDER IN CRL.LP.157/2006 Dated 21/03/2006
AGAINST THE ORDER IN CC.59/2002 of JUDL.MAGISTRATE OF FIRST CLASS-I, ERNAKULAM

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APPELLANT: COMPLAINANT

SILPI AGRO TECH. (P) LTD.,
40/7334 “V” PENTA SQUARE,M.G.ROAD,
ERNAKULAM,
REPRESENTED BY SALES EXECUTIVE BINIL DAS.

BY ADV. SRI.T.H.ABDUL AZEEZ
SRI.T.B.HOOD

RESPONDENTS: ACCUSED & STATE
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1. M/S. PARATHODU FEEDS AND MINERALS
AGENCIES,
PARATHODU-685 571,IDUKKI.

2. JOY BABY,
MANAGER,
M/S.PARATHODU FEEDS AND MINERS AGENCIES,
PARATHODU-685 571,IDUKKI.

3. STATE OF KERALA,
RREPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.JOSE JOSEPH ARAYAKUNNEL
PUBLIC PROSECUTOR, SRI.THOMAS JOHN AMBOOKAN

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 15/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

Crl. Appeal No.897 of 2006 (C)

Dated this the 15th February, 2007.

JUDGMENT

The complaint preferred by the complainant, under Section 138 of the Negotiable Instruments Act, was dismissed, by the learned Magistrate, on the ground that neither the counsel nor the complainant were present when the matter was taken up. The dismissal of the complaint and acquittal of the accused is under challenge, through this appeal, after obtaining leave.

2. I heard both sides. Considering the circumstances of the case, I am of the opinion that an opportunity be given to both sides to agitate the matter before the court below. Hence, I set aside the impugned order dated 14/02/2005 and restore C.C.No.59/2002 to the file of the Judicial Magistrate of the First Class-I, Ernakulam.

3. The parties shall appear on 14/03/2007. The learned Magistrate shall, give an opportunity to both sides to adduce evidence and, dispose of the same at the earliest and in any case, within three months from the date of appearance of the parties.

The appeal is allowed as above.

J.M. JAMES,
JUDGE.

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